

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE:	:	
	:	
DANIEL J. ZACHARIAS	:	Bankruptcy Case No. 12-12620 (CSS)
	:	Bankruptcy Case No. 13-50865 (CSS)
Debtor.	:	AP 14-22
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	:	
JOHN ZACHARIAS and DARLENE	:	
ZACHARIAS,	:	
	:	
Appellants,	:	
	:	
v.	:	C. A. No. 14-933-RGA
	:	
CHARLES M. FOREMAN, Trustee,	:	
	:	
Appellee.	:	

**RECOMMENDATION**

At Wilmington this 11<sup>th</sup> day of **August, 2014**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process. The central issue on appeal with whether the stipulation of dismissal of the Trustee's Adversary Complaint should be enforced. Appellant is seeking equitable relief,

specifically that the Chapter 7 Trustee honor the stipulation and defend dismissal of the Adversary Proceeding over the objection of the primary creditor. In addition, there is an mediation schedule in the underlying Bankruptcy Court matter. Although Appellee feels this matter might be resolved through mediation, it concurs with proceeding through the current Bankruptcy Court mediation.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. In light of the parties' position, it is doubtful any objections to this Recommendation will be filed pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1.

IT IS FURTHER RECOMMENDED at the request of the parties that the following briefing schedule be adopted:

Appellant's Opening Brief	Monday, September 22, 2014
Appellee's Answering Brief	Friday, October 24, 2014
Appellant's Reply Brief	Monday, November 10, 2014

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE